

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Michigan Division - Monument Builders
of North America, *et al.*,

Plaintiffs,

v.

Case No. 2:05-CV-74721

Michigan Cemetery Association, *et al.*,

Honorable Sean F. Cox

Defendants.

ORDER REGARDING
BRIEFING FOLLOWING REMAND

On December 13, 2005, Plaintiffs filed this purported class action, asserting antitrust claims under the Sherman Act, 15 U.S.C. §1 *et seq.*, and state law claims under Michigan's Prepaid Funeral and Cemetery Sales Act, M.C.L. §328.225. In an Opinion & Order dated October 27, 2006, this Court granted Defendants' motions to dismiss the complaint.

On November 11, 2006, Defendant White Chapel Memorial Association filed a Motion for Attorney Fees and Costs, seeking sanctions pursuant to 28 U.S.C. §1927 and the Court's inherent authority to sanction misconduct. On November 11, 2006, Defendant Michigan Cemetery Association and Defendant Arborcrest Memorial Park each filed a Motion for Attorney Fees and Costs Pursuant to FED. R. CIV. P. 11. In addition, on November 29, 2006, Defendant Michigan Memorial Park, Inc. filed its own motion seeking sanctions.

This Court denied those motions in Orders dated November 22, 2006 (Docket Entry No. 151) and December 1, 2006 (Docket Entry No. 156). At that time, the motions had not been fully briefed by the parties.

Plaintiffs filed a timely appeal of this Court's Opinion & Order dismissing their claims. In addition, the following four Defendants filed cross-appeals regarding this Court's denial of their motions seeking sanctions: 1) White Chapel Memorial Association ("White Chapel"); 2) the Michigan Cemetery Association (the "MCA"); 3) Arborcrest Memorial Park ("Arborcrest"); and 4) Michigan Memorial Park, Inc. ("MMP").

In a published opinion issued on May 1, 2008, the United States Court of Appeals for the Sixth Circuit affirmed this Court's October 27, 2006 Opinion & Order dismissing Plaintiffs' claims. *See Michigan Division - Monument Builders of North America v. Michigan Cemetery Assoc.*, __ F.3d __, 2008 WL 1901246 (6th Cir. 2008). The Sixth Circuit also vacated this Court's Orders denying the motions for sanctions filed by White Chapel, the MCA, Arborcrest and MMP, and remanded the action for further proceedings.

Now, in order to conduct such further proceedings, the Court hereby **ORDERS** the following:

Within fourteen (14) days of this Order, Defendants White Chapel, the MCA, Arborcrest and MMP shall each file a brief in support of their previously filed motions. Within fourteen (14) days of the filing of Defendants' supporting briefs, Plaintiffs shall file their response briefs. Defendants' opening supporting briefs, and Plaintiffs' response briefs, shall be no more than 20 pages and should comply with the general requirements of Local Rule 7.1(c). Each party must file its own "stand-alone" brief (*i.e.*, the briefs should not incorporate by reference any other briefs or submissions).

Within 7 (seven) days of the filing of Plaintiffs' response briefs, Defendants may each file a reply brief of no more than 5 pages.

Defendants' opening supporting briefs must:

- a) Identify the legal authority under which sanctions/attorney fees are sought;
- b) Specify the amount of sanctions/attorney fees sought, and include all necessary supporting documentation; and
- c) Specify the individuals or entities against whom an award of sanctions/attorney fees is sought (individual attorneys, law firms, Plaintiffs, etc.) and the legal authority for any such awards.

Any Defendant seeking sanctions under FED. R. CIV. P. 11 must specify how it complied with Rule 11's "safe harbor" provision, and must include all necessary supporting documentation of same.

After all briefing has concluded, the parties will be advised by further order of this Court as to whether the Court will entertain oral argument with respect to these motions. Any questions regarding this Order should be directed to the Court's Docket Manager at (313) 234-2653.

IT IS SO ORDERED.

s/Sean F. Cox

Sean F. Cox

United States District Judge

Dated: May 14, 2008

I hereby certify that a copy of the foregoing document was served upon counsel of record on May 14, 2008, by electronic and/or ordinary mail.

s/Jennifer Hernandez

Case Manager